



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

October 21, 2020

BY ECF AND EMAIL

The Honorable Lewis A. Kaplan
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

MEMO ENDORSED

Re: United States v. Donald Laguardia
19 Cr. 893 (LAK)

Dear Judge Kaplan:

The Government respectfully writes in connection with the Court's October 20, 2020 Order denying the Government's motion *in limine* to allow a trial witness (the "Witness") to testify remotely over video-conferencing technology instead of in-person (the "Order"). Pursuant to the Court's Order, the Government will be informing the Witness immediately that his testimony will be in-person, rather than remote. The Government has previously served the Witness with a trial subpoena to appear for testimony on November 4.

In describing the nature of the quarantine that the Witness must undergo before trial, the Order makes reference to Governor Cuomo's Executive Order 205 (the "Executive Order"), which requires a traveler coming into New York from a state with a significant rate of transmission of COVID-19 ("transmission state") to quarantine for a 14-day period from the time of his or her last contact within the transmission state. The Executive Order would require a person coming to this District from Florida, which is where the Witness is coming from, to quarantine in New York for 14 days. The Executive Order notes that the State may issue additional protocols for "essential workers" or for other extraordinary circumstances where a quarantine is not possible, provided such measures continue to safeguard the public health.

On October 6, 2020, the U.S. Attorney's Office was informed by the District Court that a new protocol, the revised version of which is dated October 13, 2020 and is attached hereto, now governs the pandemic-related precautions that a subpoenaed witness traveling to this District must take prior to testifying at a proceeding at the courthouse (the "Protocol"). The Protocol issued by the District Court requires a subpoenaed witness to abide by all requirements applicable to "essential workers" traveling to New York for the medium term. The Protocol does not require a subpoenaed witness to quarantine for 14 days in New York prior to testifying, but allows the witness instead to quarantine for 14 days in his or her state of residence directly prior to arriving in this District, and then to submit to a COVID-19 test upon arrival. Under the Protocol, the

Memorandum Endorsement

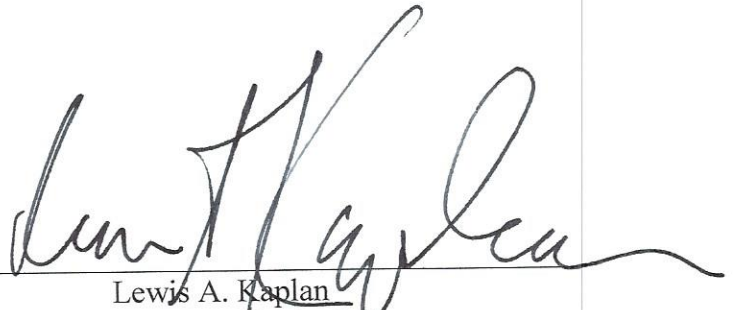
United States v. LaGuardia, 19-cr-0893 (LAK)

The Court confirms that the protocol attached to the government's letter is the policy of the Southern District of New York solely with respect to Witnesses Traveling from Restricted States in Criminal Cases.

The attention of the government is invited to paragraph 6 of the protocol, which places specific responsibilities on counsel for the party calling such a witness, and to page 2 of the protocol, which addresses COVID tests that are and are not accepted. Any questions should be directed to the District Executive.

SO ORDERED.

Dated: October 22, 2020



Lewis A. Kaplan
United States District Judge